

CRS Report for Congress

Burma and Transnational Crime

October 25, 2007

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**Prepared for Members and
Committees of Congress**

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 25 OCT 2007		2. REPORT TYPE		3. DATES COVERED 00-00-2007 to 00-00-2007	
4. TITLE AND SUBTITLE Burma and Transnational Crime				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Congressional Research Service, The Library of Congress, 101 Independence Ave, SE, Washington, DC, 20540-7500				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 12	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Burma and Transnational Crime

Summary

Transnational organized crime groups in Burma (Myanmar) operate a multi-billion dollar criminal industry that stretches across Southeast Asia. Trafficked drugs, humans, wildlife, gems, timber, and other contraband flow through Burma, supporting the illicit demands of the region and beyond. Widespread collusion between traffickers and Burma's ruling military junta, the State Peace and Development Council (SPDC), allows organized crime groups to function with virtual impunity. Transnational crime in Burma bears upon U.S. interests as it threatens regional security in Southeast Asia and bolsters a regime that fosters a culture of corruption and disrespect for the rule of law and human rights. Congress has been active in U.S. policy toward Burma, requiring sanctions to be imposed on Burmese imports, suspending most foreign assistance and loans, and ensuring that U.S. funds remain out of the regime's reach. This report analyzes the primary actors driving transnational crime in Burma, the forms of transnational crime occurring, and current U.S. policy in combating these crimes. This report will be updated as events warrant.

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Burma and Transnational Crime

Scope of the Problem

Transnational organized crime groups flourish in Burma, trafficking contraband that includes drugs, humans, guns, wildlife, gems, and timber. Transnational crime is highly profitable, reportedly generating roughly several billion dollars each year. The country's extra-legal economy, both black market and illicit border trade, is reportedly so large that an accurate assessment of the size and structure of the country's economy is unavailable. Contraband trafficking also remains a low-risk enterprise, as corruption among Burmese junta officials facilitates trafficking and effectively provides the criminal underground immunity from law enforcement and judicial action. Synergistic links connect various forms of contraband trafficking; smugglers use the same routes for many forms of trafficking, following paths of least resistance, where corruption and lax law enforcement prevail.

The continued presence of transnational crime in Burma and the illicit trafficking routes across Burma's borders share many features of so-called "ungoverned spaces" — regions of the world where governments have difficulty establishing control or are complicit in the corruption of the rule of law.¹ Among the commonalities that Burma's border regions share with other ungoverned spaces is physical terrain that is difficult to control; Burma's long borders, through which much smuggled contraband passes, stretch across vast trackless hills and mountains that are poorly patrolled. In addition, continuing ethnic tensions with some ethnic armed rebel groups hamper government control in some regions of the country. Recent cease-fire agreements in other border regions have not markedly improved the situation; instead, these cease-fires have provided groups known for their activity in transnational crime with near autonomy, essentially placing these areas beyond the reach of Burmese law.

Primary Actors and Motives

Organized Crime/Ethnic Gangs

The United Wa State Army (UWSA), ethnic Chinese criminal groups (including the Triads), the Shan State Army-South (SSA-S), and other armed gangs have criminal networks that stretch from India to Malaysia and up into China. The State

¹ See the 2006 National Security Strategy of the United States, available at [<http://www.whitehouse.gov/nsc/nss.html>], and Angel Rabasa et al., *Ungoverned Territories: Understanding and Reducing Terrorism Risks* (Santa Monica, CA: Rand Corporation, 2007).

Department states that the UWSA operates freely along the China and Thailand borders, controlling much of the Shan State with a militia estimated to have 16,000 to 20,000 members.² Criminal groups, especially the 14K Triad, reportedly operate in the north of the country and in major population centers.³ According to the Economist Intelligence Unit (EIU), these criminal organizations remain virtually immune from SPDC interference because of widespread collusion with junta military, police, and political officials.⁴

Official Corruption

U.S. State Department and other observers indicate that corruption is common among the bureaucracy and military in Burma. Burmese officials, especially army and police personnel in the border areas, are widely believed to be involved in the smuggling of goods and drugs, money laundering, and corruption.⁵ The 2006 EIU country report on Burma states that “corruption and cronyism” are widespread “throughout all levels of the government, the military, the bureaucracy and business communities.” Burma ties with Somalia as the most corrupt country in the world, according to Transparency International’s 2007 *Corruption Perceptions Index*; this is a worsening from its 2006 position as the second-most corrupt country in the world.⁶ In addition, the State Department states that Burma’s weak implementation of anti-money laundering controls remains at the root of the continued use by narcotics traffickers and other criminal elements of Burmese financial institutions.⁷

There is little direct evidence of top-level regime members’ involvement in trafficking-related corruption; there is evidence that high-level officials and Burmese military officers have benefitted financially from the earnings of transnational crime organizations. In the case of the drug trade, reports indicate Burmese military officials at various levels have several means to gain substantial shares of narcotics trafficking earnings. Local military commands reportedly collect high taxes on the traffickers, as well as fees for military protection and transportation assistance. The SPDC also reportedly allows and encourages traffickers to invest in an array of domestic businesses, including infrastructure and transportation enterprises, receiving start-up fees and taxes from these enterprises in the process. The traffickers usually

² U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1 (2007).

³ Jane’s Sentinel Security Assessment: Southeast Asia, July 20, 2007; Antonio Nicaso and Lee Lamothe, *Angels, Mobsters, and Narco-Terrorists: The Rising Menace of Global Criminal Enterprises* (Ontario, Canada: John Wiley & Sons, 2005).

⁴ Economist Intelligence Unit, *Myanmar (Burma) Country Profile* (2006).

⁵ U.S. Department of State, *International Narcotics Control Strategy Report*, vols. 1 and 2 (2007); Jane’s Sentinel Security Assessment: Southeast Asia, July 20, 2007, *op cit.*; Economist Intelligence Unit, *op cit.*; Transparency International, *Corruption Perceptions Index* (2007). According to some analysts, corruption among police and border patrol officials in Burma’s neighboring countries also eases the flow of trafficked goods out of Burma.

⁶ Transparency International, *op cit.*; Transparency International, *Corruption Perceptions Index* (2006).

⁷ 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit.*

deposit the earnings from these enterprises into banks controlled by the military, and military officers reportedly deposit much of their crime-related money in foreign bank accounts in places like Bangkok and Singapore.⁸

Regional Demand

The most frequent destinations for much of Burmese contraband — opium, methamphetamine, illegal timber, endangered wildlife, and trafficked humans — are China and Thailand.⁹ Other destinations include India, Laos, Bangladesh, Vietnam, Indonesia, Malaysia, Brunei Darussalam, South Korea, and Cambodia. Demand for Burma's contraband reaches beyond the region, including the United States. The U.S. Drug Enforcement Administration (DEA), for example, reports that Burmese-trafficked methamphetamine pills have been confiscated within the United States.¹⁰ The United States is also reputed to be among the world's largest importers of illegal wildlife;¹¹ no concrete data exist, however, to link such transnational ties with Burma.

Peasants and Urban Poor

Ready recruits for organized crime activities can be found in both urban ghettos and impoverished rural areas.¹² According to the Asian Development Bank, 27% of Burma's population live below the poverty line, making the country one of the poorest in Southeast Asia. Many analysts state that peasant farmers, rural hunters, and other poor often serve at the base of Burma's international crime network, growing opium poppy crops, poaching exotic and endangered species in Burma's lush forests, and serving as couriers and mules for contraband. In addition, the State Department and other observers have found that many victims of transnational crime in Burma are the poor, becoming commodities themselves as they are trafficked to be child soldiers for the junta or slaves for sexual exploitation.¹³

⁸ See CRS Report RL33479, *Burma-U.S. Relations*, by Larry A. Niksch; Christopher S. Wren, "Road to Riches Starts in the Golden Triangle," *New York Times*, May 5, 1998; Robert S. Gelbard, "Slor's Drug Links," *Far Eastern Economic Review*, November 21, 1996; Anthony Davis, "The Wa Challenge Regional Stability in Southeast Asia," *Jane's Intelligence Review*, January 2003.

⁹ See United Nations Office on Drugs and Crime, *World Drug Report* (2007); 2007 *International Narcotics Control Strategy Report*, *op cit.*; Global Witness, *A Choice for China: Ending the Destruction of Burma's Northern Frontier Forests* (2005); Jolene Lin, "Tackling Southeast Asia's Illegal Wildlife Trade," *Singapore Year Book of International Law*, vol. 9 (2005); and U.S. Department of State, *Trafficking in Persons Report* (2007).

¹⁰ U.S. Drug Enforcement Administration, "Methamphetamine: The Current Threat in East Asia and the Pacific Rim," *Drug Intelligence Brief*, September 2003.

¹¹ U.S. Fish and Wildlife Service, Annual Report FY2006, August 2007; "Wildlife Smuggling Boom Plaguing L.A., Authorities Say," *National Geographic News*, July 26, 2007.

¹² Michael Lyman, *Organized Crime* (Upper Saddle River, NJ: Prentice Hall, 2007).

¹³ 2007 *Trafficking in Persons Report*, *op cit.*

Illicit Economies in Burma

Drugs

In September 2007, the Administration once again included Burma on the list of major drug transit or major illicit drug producing countries.¹⁴ Located at the heart of the “Golden Triangle” of narcotics trafficking, Burma is among the world’s top producers of opium, heroin, and methamphetamine.¹⁵ Illicit narcotics reportedly generate between \$1 billion and \$2 billion annually in exports. Although poppy cultivation has declined significantly in recent years, Burma remains the world’s second-largest producer of illicit opium, behind Afghanistan.¹⁶ In addition, the DEA reports that Burma accounts for 80% of all heroin produced in Southeast Asia. According to the U.N. Office on Drugs and Crime, the total potential opium retail value of the 2006 poppy harvest in Burma was \$220 million; if the entire 2006 harvest of opium poppy were refined into heroin, total potential heroin street value could add up to \$1.8 billion.¹⁷ Much of the decline is attributed to UWSA’s 2006 public commitment to stop its activity in the opium and heroin markets. According to the State Department, UWSA leadership is intentionally replacing opium cultivation with the manufacturing and trafficking of methamphetamine, or *ice*. As a result, Burma is emerging as one of the world’s largest producers of methamphetamine and other amphetamine-type stimulants.¹⁸ In a 2007 report, the State Department states that this sharp increase in methamphetamine trafficking is “threatening to turn the Golden Triangle into an ‘Ice Triangle.’”¹⁹ In the meantime, other criminal elements in eastern and southern Shan State are boosting their production of opium.²⁰

Humans

Burma has been designated as a “Tier 3” state in every Trafficking in Persons (TIP) Report ever published by the State Department. Tier 3 is the worst designation in the TIP Report, indicating that the country does not comply with minimum standards for combating human trafficking under the Victims of Trafficking and Violence Protection Act, as amended (22 U.S.C. 7104, et seq). Victims are trafficked

¹⁴ This annual list, required by section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228).

¹⁵ The “Golden Triangle” refers to an area of approximately 135,000 square miles of mountains that surround the Burma-Laos-Thailand border region. In the 1980s and 1990s, the Golden Triangle reigned as the world’s largest producer of opium poppy.

¹⁶ 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit*.

¹⁷ 2007 *World Drug Report*, *op cit*.

¹⁸ U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1, *op cit*.; Jane’s Sentinel Security Assessment: Southeast Asia, July 20, 2007, *op cit*.

¹⁹ U.S. Department of State, *International Narcotics Control Strategy Report*, vol. 1, *op cit*.

²⁰ Central Intelligence Agency, *World Factbook* (2007); 2007 *International Narcotics Control Strategy Report*, vol. 1, *op cit*.

internally and regionally, and junta officials are directly involved in trafficking for forced labor and the unlawful conscription of child soldiers, according to the 2007 TIP Report. Women and girls, especially those of ethnic minorities groups and those among the thousands of refugees along Burma's borders, are reportedly trafficked for sexual exploitation. Victims are reportedly trafficked from rural villages to urban centers and commerce nodes, such as truck stops, border towns, and mining and military camps.²¹

Natural Resources

Burma is rich in natural resources, including extensive forests, high biodiversity, and deposits of minerals and gemstones. Illegal trafficking of these resources is reportedly flowing to the same destination states and through the same trafficking routes as other forms of trafficking. Global Witness, a London-based non-governmental organization, estimates that 98% of Burma's timber exports to China were illegally logged from 2001-2004, amounting to an average of \$200 million worth of illegal exports each year.²² Wild Asiatic black bears, clouded leopards, Asian elephants, and a plethora of reptiles, turtles, and other unusual animals reportedly are sold in various forms — whole or in parts, stuffed, ground, or, sometimes, alive — in open-air markets in lawless border towns.²³ Growing demand in countries such as China and Thailand has increased regional prices for exotic wildlife; for example, a tiger's skin can be worth up to \$20,000, according to media reports.²⁴ One report suggests that valuable wildlife is used as currency in exchange for drugs and in the laundering of other contraband proceeds.²⁵ Rubies, sapphires, jade, and other gems have also been used as non-cash currency equivalents. The legal sale of Burmese gems is among the country's most significant foreign currency earners — \$297 million during the 2006-2007 financial year, according to Burma's customs department; more may be traded through illicit channels.²⁶

Other Contraband

Reportedly, AK-47s, B-40 rocket launchers, and other small arms are smuggled into Burma along the Thai-Burmese border. These weapons reportedly go to the Karen guerrillas, who continue to fight a decades-long insurgency against the Burmese junta. Another report implicates the Shan State Army in trafficking in military hardware.²⁷ Although analysts say it is unlikely that the ruling junta benefits

²¹ 2007 *Trafficking in Persons Report*, *op cit.*, p. 71.

²² Global Witness (2005), *op cit.*

²³ Christopher Shepherd and Vincent Nijman, "An Assessment of Wildlife Trade at Mong La Market on the Myanmar-China Border," *TRAFFIC Bulletin*, vol. 21, no. 2 (2007).

²⁴ "Factbox: Why Are Asia's Endangered Animals So Sought After?" *Reuters News*, September 3, 2007.

²⁵ Lin, *op cit.*

²⁶ "Myanmar Rubies, Sapphires for Sale at Gems Fairs," *Reuters News*, October 19, 2006.

²⁷ Eric Tagliacozzo, "Border Permeability and the State in Southeast Asia: Contraband and (continued...)"

from the criminal profits of small arms trafficking, reports indicate that the government distributes such weapons to its cadre of child soldiers.²⁸ Other less high-profile markets for contraband reportedly exist, including trafficking in cigarettes, cars, CDs, pornography, antiques, religious items, and counterfeit documents.

Money Laundering

In 2001, Burma was designated as a Non-Cooperative Country or Territory (NCCT) by the Financial Action Task Force on Money Laundering (FATF) for deficient anti-money laundering provisions and weak oversight of its banking sector.²⁹ Following the designation by the FATF, the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory in 2002 to U.S. financial institutions to give enhanced scrutiny to any financial transaction related to Burma.³⁰ In 2003, two of Burma's largest private banks — Myanmar Mayflower Bank and Asia Wealth Bank — were implicated by FATF as involved in laundering illicit narcotics proceeds. The Secretary of the Treasury in 2004 listed Burma as a "major money laundering country of primary concern" and imposed additional countermeasures.³¹ Burma has since revoked the operating licenses of the two banks implicated in 2003. However, the U.S. government and international bodies, such as FATF, continue to monitor the widespread use of informal money transfer networks, sometimes also referred to as "hundi" or "hawala." Monies sent through these informal systems are usually legitimate remittances from family members abroad. The lack of transparency and regulation of these money transfers remain issues of concern for the United States. In other parts of the world, hawala or hawala-like techniques have been used, or are suspected of being used, to launder proceeds derived from narcotics trafficking, terrorism, alien smuggling, and other criminal activities.³²

²⁷ (...continued)

Regional Security," *Contemporary Southeast Asia*, vol. 23, no. 2 (2001).

²⁸ Human Rights Watch, *Small Arms and Human Rights: The Need for Global Action; A Human Rights Watch Briefing Paper for the U.N. Biennial Meeting on Small Arms* (2003).

²⁹ Created in 1989, the Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

³⁰ See 31 CFR Part 103, Department of the Treasury, Financial Crimes Enforcement Network, Imposition of Special Measures against Burma.

³¹ Pursuant to 31 U.S.C. 5318A, as added by Section 311 of the USA PATRIOT Act (P.L. 107-56), these countermeasures prohibited U.S. banks from establishing or maintaining correspondent or payable-through accounts in the United States for or on behalf of Myanmar Mayflower and Asia Wealth Bank and, with narrow exceptions, for all other Burmese banks. See 2007 *International Narcotics Control Strategy Report*, vol. 2, *op cit*.

³² Patrick M. Jost and Harjit S. Sandhu, *The Hawala Alternative Remittance System and its Role in Money Laundering* (Lyon, France: Interpol General Secretariat, 2000).

U.S. Policy

Sanctions and Special Measures

Burma is subject to a broad sanctions regime that addresses issues of U.S. interest, which include democracy, human rights, and international crime.³³ Specifically in response to the extent of transnational crime occurring in Burma, the President has taken additional actions against the country under several different legislative authorities. Burma is listed as a major drug-producing state, and because of its insufficient effort to combat the narcotics trade, the country is barred access to some U.S. foreign assistance.³⁴ As an uncooperative, major drug-producing state, Burma is also subject to trade sanctions.³⁵ In 2005, the Department of Justice indicted eight Burmese individuals identified in 2003 by the U.S. Treasury's Office of Foreign Assets Control for their alleged role in drug trafficking and money laundering.³⁶

Burma is characterized by the State Department's 2007 Trafficking in Persons report as a Tier 3 state engaged in the most severe forms of trafficking in persons; as such, Burma is subject to sanctions, barring the country from non-humanitarian, non-trade-related U.S. assistance and loss of U.S. support for loans from international financial institutions.³⁷ As a major money laundering country — defined by Section 481(e)(7) of the Foreign Assistance Act of 1961, as amended, as one “whose financial institutions engage in currency transactions including significant amounts of proceeds from international narcotics trafficking” — Burma is subject to several “special measures” to regulate and monitor financial flows. These include Department of Treasury advisories for enhanced scrutiny over financial transactions, as well as five special measures listed under 31 U.S.C. 5318A.³⁸

³³ Notable sanctions among those not specifically related to international crime include the Burmese Freedom and Democracy Act of 2003 (P.L. 108-61, extended by P.L. 108-272 and P.L. 109-39); Executive Order 13047, issued May 20, 1997, under Section 570 of the Foreign Appropriations Act, 1997 (P.L. 104-208); and Executive Order 13310, issued July 28, 2003, to implement P.L. 108-61 (the President announced additional modifications September 25 and 27, 2007). See also CRS Report RS22737, *Burma Sanctions: Background and Options*, by Larry A. Niksch and Martin A. Weiss.

³⁴ Pursuant to Section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.

³⁵ Trade sanctions are pursuant to the Narcotics Control Trade Act (19 U.S.C. 2491-2495) and the Customs and Trade Act of 1990 (P.L. 101-382), issued April 24, 1990.

³⁶ The indictments were made using the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901-1908). The indicted Burmese have yet to be arrested or brought to trial in the United States.

³⁷ Sanctions are pursuant to the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386). The decision to apply sanctions under P.L. 106-386 is left to presidential discretion.

³⁸ These include (1) record-keeping and reporting of certain financial transactions, (2) collection of information relating to beneficial ownership, (3) collection of information relating to certain payable-through accounts, (4) collection of information relating to certain (continued...)

The United States does not apply sanctions against Burma in specific response to its activity in other illicit trades, including wildlife.³⁹ Recently, however, Senator John McCain introduced a bill on October 16, 2007 (S. 2172), that would prohibit the importation of gems and hardwoods from Burma, among other sanctions. Representative Tom Lantos introduced a different bill on October 18, 2007 (H.R. 3890), that, among other restrictions, would also impose sanctions on Burmese gemstones.

After more than a decade of applying sanctions against Burma, however, many analysts have concluded that the sanctions have done little to change the situation. The effectiveness of U.S. sanctions is limited by several factors.⁴⁰ These include (1) unevenly applied sanctions against Burma by other countries and international organizations, including the European Union and Japan; (2) a booming natural gas production and export industry that provides the SPDC with significant revenue; (3) continued unwillingness of Burma's fellow members in the Association of Southeast Asian Nations (ASEAN) to impose economic sanctions against Burma; (4) Burma's historical isolation from the global economy; and (5) China's continued economic and military assistance to Burma. In addition, some analysts suggest that sanctions are, in part, culpable for the flourishing black markets in Burma, including trafficking in humans, gems, and drugs, because legal exports are barred.⁴¹ Several analysts indicate that many Burmese women who lost their jobs in the textile industry as a result of Western sanctions are among the victims of trafficking for sexual exploitation.⁴²

Regional Border Control Assistance

The United States is assisting neighboring countries with stemming the flow of trafficked contraband from Burma into their territories. Although most U.S. assistance to combat transnational crime in Burma remains in suspension, the United States is working to train law enforcement and border control officials in neighboring countries through anti-crime assistance programs.⁴³ Currently, the bulk of funding

³⁸ (...continued)

correspondent accounts, and (5) prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts for a foreign financial institution. See Douglas N. Greenburg, John Roth, and Katherine A. Sawyer, "Special Measures under Section 311 of the USA PATRIOT Act," *The Review of Banking and Financial Services*, vol. 23, no. 6, June 2007.

³⁹ Notably, President Bill Clinton in 1994 used the 1971 Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978), as a means by which to impose sanctions against Taiwan for its alleged insufficient progress toward eliminating the country's illegal trade in rhino and tiger parts and products. The sanction temporarily banned the importation of certain fish and wildlife products from Taiwan.

⁴⁰ See CRS Report RL33479, *op cit*.

⁴¹ Fareed Zakaria, "Sleepwalking to Sanctions, Again," *Newsweek*, October 15, 2007.

⁴² See, for example, "U.S. Sanctions 'Hit Burma Hard,'" *BBC News*, October 3, 2003.

⁴³ Under authorities granted in Section 2291 of the Foreign Assistance Act of 1961, as (continued...)

to Burma's neighbors remains concentrated in counter-narcotics and anti-human trafficking projects; no funding is allocated to the State Department for combating "organized and gang-related crime" in the region. Overall funding to combat trafficking has been in decline for several years; the Administration's FY2008 appropriations request for Foreign Operations in the region represents a 24.2% decrease from FY2006 actual funding.

A New Approach?

Despite Burma's recent progress in reducing opium poppy cultivation, most experts believe U.S. policies have not yielded substantial leverage in combating transnational crime emanating from Burma. In light of the most recent displays of junta violence against political demonstrators in September 2007, however, there are indications of increasing political interest in re-evaluating U.S. policy toward Burma. Among the considerations that policy makers have recently raised are (1) whether the United States should increase the amount of humanitarian aid sent to Burma; (2) what role ASEAN and other multilateral vehicles for dialogue could play in increasing political pressure on the junta regime; (3) what role the United States sees India, as the world's largest democracy and Burma's neighbor, playing in ensuring that Burma does not become a source of regional instability; and (4) how the United States can further work with China and Thailand, as the largest destinations of trafficked goods from Burma, to address transnational crime along Burma's borders.

⁴³ (...continued)

amended, the State Department is responsible for coordinating foreign assistance and law enforcement training for counter-narcotics and anti-crime programming. According to the Administration's FY2008 Foreign Operations Budget Justification, such programs exist in four of Burma's neighbors: Thailand, Laos, India, and Bangladesh.